IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3625 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G S R T C

Versus

RAMESHCHANDRA CHANDULAL THAKKAR

Appearance:

1. Special Civil Application No. 3625 of 1988

MR HARDIK C RAWAL for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 18/01/2003

ORAL JUDGEMENT

1. Heard Mr. H.C.Raval, learned advocate for the petitioner - G.S.R.T.Corporation.

2. This petition under Article 227 of the Constitution of India is directed against the award dated 13.10.1987 passed in Reference (LCA) No.658 of 1985 by the Labour Court, Ahmedabad, directing the present petitioner - Gujarat State Road Transport Corporation to re-list the name of the respondent workman in the waiting list and reinstatement in service as Badli Worker with continuity of service and full back wages.

3. The facts suggested from the impugned award are that respondent workman was working as a conductor from 1981 as Badli Worker and his name was included in waiting / waiting list. That on 24.7.1984, respondent workman was on duty as a conductor on Mehsana - Ambaji route. That it was reported that on checking, it was found that the respondent had collected fare at the rate of Rs.3.40 from passengers but, did not issue the ticket to the passengers concerned till the checking point and on the basis of the said report, name of the respondent workman was removed from waiting / select list on 26.9.1984. That workman was served with the memo on 7.8.1984 to which he replied on 12.8.1984. That before ordering the removal / deletion of the name from waiting / select list, no charge sheet was served nor any departmental inquiry initiated. Thus, the order removing / deleting the name of the respondent workman from waiting / select list is challenged.

4. Admittedly, before ordering removal / deletion of the respondent's name from waiting / selection list no charge sheet was filed, no departmental inquiry conducted and only memo dated 7.8.1984 was given to which the respondent workman replied on 12.8.1984 and thereafter, his name came to be removed from waiting / select list vide order dated 26.9.1984.

5. In the case of S. Govindraju Vs. K.S.R.T.C. and Anr., reported in AIR 1986 SC 1680, it has been held that the "order of termination was in violation of principles of natural justice. The candidate's services were terminated on the ground of his being found unsuitable for the appointment and as a result of which his name was deleted from the select list, and he forfeited his chance for appointment. Once a candidate is selected and his name is included in the select list for appointment in accordance with the Regulations he gets a right to be considered for appointment as and when vacancy arises. On removal of his name from the select list serious consequence entail as he forfeits his right to employment in future. In such a situation even though

the Regulations do not stipulate for affording any opportunity to the employee, the principles of natural justice would be attracted and the employee would be entitled to an opportunity of explanation, though no elaborate enquiry would be necessary. Giving an opportunity of explanation would meet the bare minimal requirement of natural justice. Before the services of an employee are terminated, resulting into forfeiture of his right to be considered for employment, opportunity of explanation must be afforded to the employee concerned."

6. In the instant case, it is not suggested that reasonable opportunity of explanation was given to respondent workman before his name was ordered to be removed / deleted from the waiting / select list. Therefore, in my opinion, the present case is squarely covered by the decision in the case of S. Govindraju (supra), I do not see any illegality or perversity committed in the impugned award passed by the Labour Court, Ahmedabad so as to call for interference under Article 227 of the Constitution of India and, therefore, the petition, being devoid of merits, is liable to be rejected.

7. In the result, petition fails. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated.

(N.G.Nandi,J.)
(vipul)